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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/523,326	02/01/2005	Matthias Marke	112740-1047	5780

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EXAMINER

COLUCCI, MICHAEL C

ART UNIT	PAPER NUMBER
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2626

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/523,326	Applicant(s) MARKE ET AL.	
	Examiner Michael C. Colucci	Art Unit 2626	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 14-25 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 14-25 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01 February 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☒ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>4/19/05, 2/01/05</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in **Graham v. John Deere Co., 383 U.S. 1, 148 USPQ 459 (1966)**, that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows: (See MPEP Ch. 2141)

- a. Determining the scope and contents of the prior art;
 - b. Ascertaining the differences between the prior art and the claims in issue;
 - c. Resolving the level of ordinary skill in the pertinent art; and
 - d. Evaluating evidence of secondary considerations for indicating obviousness or nonobviousness.
2. Claims 14-16 and 18-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Makinen et al US 6968309 B1 (herein after Makinen) in view of Chu et al US 6721707 B1 (herein after Chu).

Re claims 14-16 and 25, Makinen teaches a "method for evaluating data containing useful information (Makinen col 13 line 34-46) received via a communication network (Makinen col 6 line 24-41)"

"evaluating and at least partially correcting (Makinen col 2 line 11-21), via a channel decoder (Makinen col 1- line 1-27), the data received"

"forwarding, via the channel decoder (Makinen fig. 1), to a speech decoder (Makinen col 12 line 60-67) the data with characteristics of supplementary information (Makien fig. 4 '162') representing the data"

(Supplementary information is construed as additional information gained from the signal such as whether or not errors/corruption are present within a frame of data from the speech)

"decoding the data via the speech decoder (Makinen col 12 line 60-67) and, where necessary, performing error concealment (Makinen col 2 line 22-40 & fig. 2)"

"forwarding the data to a text (Makinen col 8 line 20-30) telephony receiver (Makinen col 12 line 1-11 & fig. 6 '330') via the speech decoder"

(Figure 6 shows a telephone network where mobile station will have a receiver. Telephony is construed to be related to transmission and receiving within a communication network. The decoding of speech implies text present within the data stream.)

"evaluating the data received and analyzing (Makinen col 13 line 34-46) the data statistically (Chu col 11 line 24-35), via a demodulator (Makinen col 12 line 1-11 & fig. 6 '330') in the text telephony receiver (Makinen col 12 line 1-11 & fig. 6 '330'), by measuring a signal energy (Chu col 11 line 24-35)"

(The use of gain to analyze a signal implies energy levels are used during evaluation.)

Makinen fails to particular teach processed energy levels and statistical analysis. Chu teaches a signal processed during data communication that includes a statistical analysis unit for generating data and the frequency of errors. Chu also teaches that the statistical analysis includes bit error rate and energy level transmission between states. Therefore, the combined teaching of Makinen and Chu as a whole would have rendered obvious evaluating data statistically through a demodulator in a telephony receiver by measuring signal energy.

“generating, via the demodulator (Makinen col 12 line 1-11 & fig. 6 ‘330’), reliability information (Makinen fig. 4 & col 10 line 28-44) relating to the data received”

(Reliability information is construed as the likelihood, probability, or even prediction that data will be properly decoded with no corruption/errors. Reliable information from a frame of speech is that long term predictions even when corrupted, have a high probability of being correctly predicted)

“forwarding the data, via the demodulator (Makinen col 12 line 1-11 & fig. 6 ‘330’), with the reliability information (Makinen fig. 4 & col 10 line 28-44) to an error correction (Makinen col 2 line 11-21) modulator (Makinen col 11 line 48-67)”

“correcting the data received, via the error correction (Makinen col 2 line 11-21) modulator (Makinen col 11 line 48-67), taking into account the reliability information (Makinen fig. 4 & col 10 line 28-44)”

Re claim 18, the combined teaching discloses a "method for evaluating data containing useful information as claimed in claim 14, wherein the data is analyzed in a mobile station (Makinen col 5 line 51-67)"

Re claim 19, the combined teaching discloses a "method for evaluating data containing useful information as claimed in claim 14, wherein the data is transmitted over a cellular (Makinen fig. 6 '330') mobile communication network (Makinen col 12 line 12-43)"

Re claim 20, the combined teaching discloses a "method for evaluating data containing useful information as claimed in claim 14, wherein for statistical (Chu col 11 line 24-35) detection of an error concealment (Makinen col 2 line 22-40 & fig. 2) by the speech decoder (Makinen col 12 line 60-67), time segments of frames (Makinen col 1 line 25-37) of the received useful information are analyzed"

Re claim 21, the combined teaching discloses a "method for evaluating data containing useful information as claimed in claim 20, wherein the time segments (Makinen col 1 line 25-37) are analyzed in a text telephony demodulator (Makinen col 11 line 48-67)"

Re claim 22, the combined teaching discloses a "method for evaluating data containing useful information as claimed in claim 14, wherein the error correction (Makinen col 2 line 11-21) modulator is located in (Makinen fig. 6 '340') the text (Makinen col 8 line 20-30) telephony receiver (Makinen col 12 line 1-11 & fig. 6 '330')"

Re claim 23, the combined teaching discloses a "method for evaluating data containing useful information as claimed in claim 14, wherein the data is encoded with Adaptive Multi Rate (Makinen col 2 line 22-40)"

Re claim 24, the combined teaching discloses a "method for evaluating data containing useful information as claimed in claim 14, wherein the useful information includes at least one of text, speech (Makinen col 8 line 20-30), picture and video signals"

3. Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Makinen et al US 6968309 B1 (herein after Makinen) in view of Chu et al US 6721707 B1 (herein after Chu) and further in view of Johnson US 6366578 B1 (herein after Johnson).

Re claim 17, the combined teaching of Makinen and Chu disclose a "method for evaluating data containing useful information as claimed in claim 14, wherein the data is emergency call-related data (Johnson col 56 line 1-12)"

The combined teaching of Makinen and Chu fail to disclose data being related to an emergency call. Johnson teaches a multiple mode voice and data communication system with language capabilities, where backup communications using channels implement a telephone coupled for emergency voice calls or the like. Therefore, the combined teaching of Makinen, Chu, and Johnson as a whole would have rendered obvious data containing emergency call related data.

Contact

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael C. Colucci whose telephone number is (571)-270-1847. The examiner can normally be reached on 7:30 am - 5:00 pm, Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richemond Dorvil can be reached on (571)-272-7602. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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